

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

_____)	
In the Matter of)	
)	
)	
Telephone Number Portability)	CC Docket No. 95-116
)	
)	
)	
_____)	

**COMMENTS OF INTELCOM GROUP (U.S.A.), INC.
ON PETITIONS FOR RECONSIDERATION**

IntelCom Group (U.S.A.), Inc. ("ICG") submits the following Comments on Petitions for Reconsideration of the Commission's *First Report and Order* in these proceedings, FCC 96-286, released July 2, 1996 ("*Report and Order*"). ICG's comments address the Petitions for Reconsideration of American Communications Service, Inc. ("ACSI") and various incumbent local exchange companies ("ILECs") seeking modification of the schedule for implementation of number portability.

STATEMENT OF INTEREST

ICG is one of the largest providers of competitive local access services in the United States. Using fiber optics and advanced communications technology, ICG currently operates networks in 34 cities, including a significant presence in major metropolitan areas of California, Colorado, and the Ohio Valley.

ICG provides services both to carriers and to end users, and increasingly offers switched as well as dedicated services to its customers. With the emergence of new competitive opportunities under the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) ("the 1996 Act"), ICG is seeking to expand its offerings of local exchange and exchange access services. ICG has a direct interest in the timely implementation of the number portability provisions of the *Report and Order*. Indeed, many of the markets to which ICG is bringing competition are not in the first grouping of metropolitan statistical areas ("MSAs") to be scheduled for implementation of number portability. Many of these markets are in the lower 50 of the 100 largest MSAs and are not scheduled for implementation until the later part of 1998.

INTRODUCTION AND SUMMARY

ICG supports the Commission's action in the *Report and Order*. The Commission has a mandate to have number portability implemented as soon as it is feasible. Number portability will help bring about the competitive local exchange market that the Telecommunications Act of 1996 promises. The Commission has concluded that number portability provides consumers flexibility in the way they use their telecommunication services and promotes the development of competition among alternative providers of telephone and other telecommunications services. *Report and Order*, ¶ 28. Moreover, the absence of number portability deters entry by competitive local exchange carriers ("CLECs") because of the value customers place on retaining their telephone numbers. *Report & Order*, ¶ 31. In short, number portability is essential if there is to be true competition in the local exchange markets.

For those reasons, and in order to implement the statutory mandate, 47 U.S.C. § 251(b)(2), the Commission's should make every effort to eliminate unnecessary delays in the implementation of portability as soon as it is feasible in every local exchange market. The burden must be on those seeking delays in implementing portability to justify perpetuation of this major barrier to new market entry.

Accordingly, and for the reasons stated below, the Commission should generally adopt the adjustments to the Commission's implementation schedule proposed by ACSI. On the other hand, the ILEC petitions that seek to delay implementation of long-term portability have provided no basis to allow further delays.

I. ICG SUPPORTS ACSI's SUGGESTED REVISIONS TO THE IMPLEMENTATION PLAN

The Commission should grant ACSI's request for accelerated implementation of number portability in the top 100 MSAs. The Commission's current schedule requires some Regional Bell Operating Companies ("RBOCs") – Ameritech, Bell Atlantic, NYNEX, and Pacific Bell – to convert service areas totaling at least 10 million in population during the first two phases of the implementation schedule. If implementation at this pace is feasible for some RBOCs, then it should be feasible for others as well. ACSI's proposed changes would move the implementation dates for certain MSAs ahead by one Phase so that all RBOCs are completing implementation at roughly the same pace.¹

¹ ACSI's Petition suggests that the Fort Worth MSA, rather than the slightly larger Kansas City MSA, be accelerated to coincide with the Dallas implementation. There is some logic to this proposal. However, the logic is equally applicable to numerous other MSAs that are grouped with each other in consolidated MSAs. Consolidated MSAs could be determined by the Major Trading Area definitions of the Rand McNally 1992 Commercial Atlas and Marketing Guide 36-39 (123rd Ed. 1992). If the
(Footnote continued)

In addition, ACSI proposes that those independent ILECs which are not presently scheduled to begin implementation in Phase I should be required to do so. The major independent ILECs should be able to begin their first phase of implementation at the same time that RBOCs do.

ACSI's modifications to the implementation schedule are relatively minor yet they better reflect an equal pace for the phased-in implementation plan. They ensure that all major ILECs begin implementation of portability at roughly the same time and at the same pace, and the modifications will help mitigate the delays in implementing portability in numerous markets in which CLECs such as ICG are offering a competitive alternative.

ACSI's proposed modifications to the implementation schedule also include the alternative proposal that any carrier operating in a top 100 MSA market should be allowed to request long-term number portability on or after July 1, 1997, with implementation required within six months of the request. This alternative should be adopted if the Commission does not adopt ACSI's proposed amendments to the timetable.

II. LONG-TERM PORTABILITY IN MARKETS BELOW THE TOP 100 MSAs MUST BE OFFERED EARLIER

As ACSI points out, the Commission's current schedule does not require ILECs in small cities to make long-term portability available until after July 1, 1999. The

(Footnote continued)

Commission adopts this suggestion, it should accord similar treatment to other consolidated MSAs (*e.g.*, Cleveland and Dayton, Ohio).

Commission's decision to give ILECs six months to implement number portability in response to a specific request from a market entrant seems reasonable. However, CLECs should not have to wait until December 31, 1998 to only begin this process. The Commission is correct when it notes that the actual pace of competitive entry should determine the need for service provider portability. If the pace of entry dictates that a market needs portability earlier, this market should not have to wait nearly three years to have the benefits of portability.

Some new market entrants are specifically targeting mid-level and smaller markets. Under the Commission's schedule in the *Report and Order*, these markets are placed at the very end of the portability deployment schedule and will not have the necessary ability to compete until July 1, 1999 at the earliest. Such delays make local competition in small markets nearly impossible until the turn of the century. ACSI's proposal that the timetable be moved to at least July 1, 1998 for small market *bona fide* requests should be adopted.

III. THE ILEC REQUESTS FOR DELAYS IN THE IMPLEMENTATION SCHEDULE DO NOT SERVE THE PUBLIC INTEREST

BellSouth has requested that Phase I and II implementation schedules be moved from three months to six months. BellSouth presents no significant justification for doubling the length of the implementation process for these Phases. Further, the apparent result of the proposed change would be to slow the implementation of Phase III, IV, and V cities as well. Even under the current schedule, most of these markets will not have number portability for two years. Further delays must be avoided.

It is important to note that the Chief of the Common Carrier Bureau has the authority to waive or stay any of the dates in the implementation schedule if the local carrier is unable to meet the Commission deadline due to extraordinary circumstances. *Report & Order*, ¶ 85. If, as certain ILECs allege in their petitions, there are legitimate unavoidable delays in performing the necessary network upgrades, the ILECs have a procedure in place for requesting waivers of the implementation schedule.²

Similarly, Southwestern's vague request for implementation extensions is premature. Under the *Report and Order*, if there are extraordinary operational upgrade problems that the ILECs encounter as they are implementing portability, the ILECs properly must bear the burden of proving the specific need for a delay to the Common Carrier Bureau. Southeastern Bell's ill-defined fears in no way justify lengthening what is already a generous implementation timeline.

The Commission should not grant US West's request that all carriers that are not a part of the Illinois Local Number Portability Workshop Field Trial be given an automatic implementation delay. By enabling carriers to identify potential technical problems in advance of implementation, the Illinois Workshop can benefit incumbent carriers, consumers and new entrants. However, the Illinois Workshop Field Trial will be concluded no later than August 31, 1997. *Report and Order*, ¶ 79. This is a full four months before Phase I implementation would be completed. US West and other carriers will have ample time to review and evaluate the results of the Illinois Workshop field

² In the event that the Commission does grant an extension of the implementation periods for Phase I and II, the implementation dates in cities for Phase III and beyond should remain unchanged.

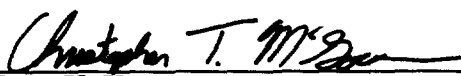
trial. Moreover, if US West and other non-participating ILECs are concerned about not getting the Workshop results early enough to perfect their own systems, they can schedule their own trials, or make arrangements for their technical representatives to observe or monitor the field trial. There is no legitimate reason to give additional delays to carriers who choose to limit, delay, or avoid their involvement in field trials.

CONCLUSION

The Commission should adopt the proposals of ACSI that the portability schedule be accelerated, and reject the requests of various ILECs for additional portability delays.

Respectfully submitted,

Cindy Z. Schonhaut
Vice President -
Government Affairs
INTELCOM GROUP (U.S.A.), INC.
9605 East Maroon Circle
Englewood, CO 80112
(303) 575-6533



Albert H. Kramer
Robert F. Aldrich
Christopher T. McGowan
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L Street, N.W.
Washington, D.C. 20554
(202) 828-2236

Attorneys for IntelCom Group (U.S.A.), Inc.

Dated: September 27, 1996

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 27th day of September, 1996, copies of the foregoing COMMENTS OF INTELCOM GROUP (U.S.A.), INC. ON PETITIONS FOR RECONSIDERATION were served via first-class United States Mail, postage prepaid to the persons listed below.

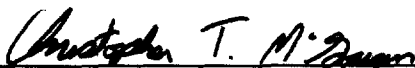
Brad E. Mutschelknaus
Edward A. Yorkgitis, Jr.
Kelley Drye & Warren, LLP
1200 19th Street, N.W., Suite 500
Washington, DC 20036

M. Robert Sutherland
Theodore R. Kingsley
Bellsouth Corporation
Bellsouth Telecommunications, Inc.
1155 Peachtree Street, N.E., Suite 1700
Atlanta, Georgia 30309-3610

Attorneys for American Communications
Services, Inc.

James D. Ellis
Robert M. Lynch
David F. Brown
SBC Communications Inc.
175 E. Houston, Room 1254
San Antonio, TX 78205

Mark D. Roellig
Dan L. Poole
Jeffrey S. Bork
U S WEST, Inc.
1020 19th Street, N.W., Suite 700
Washington, DC 20036



Christopher T. McGowan